

REMARKS

This Amendment is being filed in response to the Office Action mailed on August 5, 2008 which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-4 remain in this application, where claim 4 is added and claims 1 and 3 are independent.

By means of the present amendment, claims 1-4 have been amended for non-statutory reasons, such as for better form including beginning the independent claims with 'A, beginning the dependent claims with 'The' and changing "characterized in that" to --wherein--. Such amendments to claims 1-4 were not made in order to address issues of patentability and Applicants respectfully reserve all rights under the Doctrine of Equivalents.

In the Office Action, the Examiner objected to the Abstract for certain informalities. In response, the Abstract has been amended to remove the informalities noted by the Examiner. Accordingly, withdrawal of the objection to the Abstract is

respectfully requested.

In the Office Action, the Examiner suggested adding headings to the specification. Applicants gratefully acknowledge the Examiner's suggestion, however respectfully decline to add the headings as they are not required in accordance with MPEP §608.01(a), and could be inappropriately used in interpreting the specification.

In the Office Action, the Examiner objected to the specification for certain informalities. In response, the specification has been amended to remove the informalities noted by the Examiner, as well as other informalities. Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Office Action, the Examiner objected to the drawings because the specification does not include reference numerals 2, 4, 10 and 11 shown in FIG 1, as well as inclusion in FIG 1 of reference numeral 5 which is out of position. In response, the specification has been amended to include reference numerals 2, 4, 10 and 11. Further, FIG 1 has been amended to properly position reference numeral 5 at the box to the right of box 6. In addition,

labels have been added to boxes of FIG 1. A replacement sheet including FIG 1 is enclosed. Further, an annotated marked-up version of the sheet including FIG 1 is enclosed for convenience. Applicants respectfully request withdrawal of the drawings objection and approval of the enclosed proposed drawing changes.

In the Office Action, claims 1-4 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 7,035,969 (Yoshioka) in view of U.S. Patent Application Publication No. 2006/0146666 (Ueda). It is respectfully submitted that claims 1-4 are patentable over Yoshioka and Ueda for at least the following reasons.

Yoshioka is directed to an optical disk drive that also permits recording of a file of still pictures other than moving pictures. As correctly noted on page 8 of the Office Action, Yoshioka does not disclose or suggest a updating of a recorded area indicator on a write once recording medium in response to an update command, as recited independent claims 1 and 3. Ueda is cited in an attempt to remedy the deficiencies in Yoshioka.

It is respectfully submitted that Ueda is not prior art to the present application. The present application has an effective

filing date of June 26, 2003, which is before the Ueda publication date of July 6, 2006. That is, Ueda was published after the effective filing date of the present application. Thus, 35 U.S.C. §102(e) applies and the effective date of Ueda is, at best, its PCT filing date of March 3, 2004 (and not its foreign priority claim date of March 26, 2003). As the effective filing date of the present application of June 26, 2003 is before the Ueda PCT filing date of March 3, 2004, Ueda is not available as prior art with regard to the present application under 35 U.S.C. §102(e) (or §103(a)).

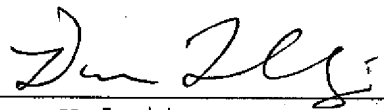
Accordingly, it is respectfully requested that independent claims 1 and 3 be allowed. In addition, it is respectfully submitted that claims 2 and 4 should also be allowed at least based on their dependence from independent claims 1 and 3 as well as their individually patentable elements.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to

submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
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Enclosure: Replacement drawing sheet (1 sheet including FIG 1)
Annotated drawing sheet (1 sheet including FIG 1)

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